

Public Health & Social Services Committee Regular Meeting Minutes

DATE & TIME: August 5, 2019 – 5:00 PM
LOCATION: K.L. Binder Library, 6th Floor, C.O.B.
PRESIDING OFFICER: Chair Craig Lopez
LEGISLATIVE STAFF: Nettie Tomshaw
PRESENT: Legislators Nolan, Petit, Wawro
ABSENT: Legislator Julius Collins
QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislator Kenneth Ronk, John Milgrim Deputy County Executive, Michael Iapoce DSS Commissioner, Neal Smoller Village Apothecary Woodstock, Thomas Kadgen LWV, Russ Gilmore Legislative Candidate

Chair Lopez called the meeting to order at 5:06 PM.

Motion No. 1: Moved to Approve the Minutes of the July 1, 2019 meeting

Motion By: Legislator Wawro
Motion Seconded By: Legislator Nolan
Discussion: None
Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Minutes **APPROVED**

Neal Smoller, Pharmacist, Village Apothecary Woodstock:

Mr. Smoller came before the committee asking to support New York State Senate and Assembly Bills S.6531 and A.2836 – an important first step in bringing oversight and accountability, helping small businesses combat pricing schemes of pharmacy benefit managers (PBM's) and practices related to the Medicaid Manage Care Program, robbing county taxpayers and forcing the closure of independent pharmacies.

In summary, the NYS Senate and Assembly Bills S.6531 and A.2836 provides for pharmacy benefit management and the procurement of prescription drugs to be dispensed to patients, or the administration or management of prescription drug benefits; sets forth definitions; provides for funds received by a pharmacy in trust for the health plan or provider and provides for

accountability of such funds; further provides for an appeals process to investigate and resolve disputes regarding multi-source generic drug pricing.

Commissioner Iapoce concurred with Mr. Smoller's overview describing the landscape at hand, however expressed he believes it's more waste and abuse of the system rather than fraud. Committee discussion ensued.

Legislator Wawro motioned, seconded by Legislator Nolan to write a letter to Governor Cuomo in support of State and Assembly Bills S.6351 and A.2836 currently before him. All were in favor. (see attached letter emailed & mailed on August 6th)

Resolutions for the August 20, 2019 Session of the Legislature

Motion No. 2 **Resolve to Block & Approve Resolution Nos. 316-321 & 324, 326, 328,329, 330, 333, 336 & 337 for August 20, 2019 Session**

Resolution Summary: The block of resolutions reflects the execution of a contract between Ulster County and group providers for preschool education professional services serving children with disabilities between three and five years of age. Each resolution within the block is for an individual vendor. State 59.5%, County 40.5%. Contract date 7/1/2019 – 6/30/2023.

Discussion: Legislator Nolan provided resolution numbers to block vote.

Motion Made By: Legislator Nolan

Motion Seconded By: Legislator Wawro

Text of Motion: **Resolution No. 316** – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Abilities First, Inc.** – Department Of Social Services

Resolution No. 317 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Ulster-Greene Counties Chapter, NYSARC, Inc. DBA The Arc Ulster-Greene** – Department Of Social Services

Resolution No. 318 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Best Friends Services Inc.** – Department Of Social Services

Resolution No. 319 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Center For Spectrum Services** – Department Of Social Services

Resolution No. 320 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Communicate To Connect: C2C** – Department Of Social Services

Resolution No. 321 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Easter Seals New York, Inc.** – Department Of Social Services

Resolution No. 324 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Inspire: Orange County Cerebral Palsy Association, Inc.** – Department Of Social Services

Resolution No. 326 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Katskill Kids PT, SLP, Psychology, RN, OT & LMSW, PLLC** – Department Of Social Services

Resolution No. 328 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Learning Together Inc.** – Department Of Social Services

Resolution No. 329 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Liberty Resources Psychology, Physical, Occupational & Speech Therapy, PLLC** – Department Of Social Services

Resolution No. 330 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Mid-Hudson Valley Early Education Center** – Department Of Social Services

Resolution No. 333 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Sullivan-Orange Counties Chapter, NYSARC, Inc. DBA The Arc Sullivan-Orange Counties** – Department Of Social Services

Resolution No. 336 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Toddler Genius Inc.** – Department Of Social Services

Resolution No. 337 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **United Cerebral Palsy Of Ulster County, Inc.** – Department Of Social Services

Voting In Favor:

Voting Against:

Votes in Favor:

Votes Against:

Disposition:

Legislators Lopez, Nolan, Petit, Wawro

None

4

0

Resolutions adopted

Motion No. 2 **Resolve to Block & Approve Resolution Nos. 322, 323, 325, 327, 331, 332, 334 & 335 - for August 20, 2019 Session**

Resolution Summary: The block of resolutions reflects the execution of a contract between Ulster County and individual providers for preschool education professional services serving children with disabilities between three and five years of age. Each resolution within the block is for an individual vendor. State 59.5%, County 40.5%. Contract date 7/1/2019 – 6/30/2023.

Discussion: Legislator Nolan provided resolution numbers to block vote.

Motion Made By: Legislator Nolan

Motion Seconded By: Legislator Petit

Text of Motion:

Resolution No. 322 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Kelley Ann Ferrara** – Department Of Social Services

Resolution No. 323 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Mary-Ann Haskell** – Department Of Social Services

Resolution No. 325 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Maria Karkos-Ford** – Department Of Social Services

Resolution No. 327 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Laura A. Kochon** – Department Of Social Services

Resolution No. 331 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Carolyn M. Machonis, O.T., PLLC DBA Milestones For Munchkins** – Department Of Social Services

Resolution No. 332 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Doreen O’Keefe** – Department Of Social Services

Resolution No. 334 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Margaret Simmons-Jackson** – Department Of Social Services

Resolution No. 335 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Jesse Smith** – Department Of Social Services

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolutions adopted

Motion No. 2 **Resolve to Block & Approve Resolution Nos. 338, 341 & 342 for August 20, 2019 Session**

Resolution Summary: The block of resolutions reflects the execution of a contract between Ulster County and Preschool Special Education Transportation Services for children between three and five years of age. State 59.5%, County 40.5%. Contract date 9/1/2019 – 8/31/2022.

Discussion: Legislator Nolan provided resolution numbers to block vote.

Motion Made By: Legislator Wawro

Motion Seconded By: Legislator Nolan

Text of Motion:
Resolution No. 338 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **Birnie Bus Service Inc.** – Department Of Social Services

Resolution No. 341 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – **MAT Bus Corp.** – Department Of Social Services

Resolution No. 342 – Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – Rolling V Bus Corp. – Department Of Social Services

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolutions adopted

Resolution No. 339: Approving The Execution Of A Contract Amendment In Excess Of \$50,000.00 Entered Into By The County – Rondout Legal Services, Inc. – Department Of Social Services

Resolution Summary: This resolution approves the execution of a contract amendment exercising the second of two options to extend the term of the agreement for legal process services. Federal 53%, State 26%, County 21%, Original Term 11/1/15 – 10-31-19, Amended Term 10/31/19 – 10/31/20, Orig. Amt. \$440K, Amd. Amt. \$110K, Total Amt. \$550K

Motion No. 5: Moved to Discuss & Adopt Resolution No. 339
Motion By: Legislator Nolan
Motion Seconded By: Legislator Petit

Discussion: Legislator Nolan confirmed Commissioner Iapoce is very pleased with Rondout Legal Services.

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolution ADOPTED

Resolution No. 340: Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – Alison Krause, LMSW – Department Of Social Services

Resolution Summary: This resolution approves the execution of a contract with Alison Krause, LMSW to provide behavioral health clinical services in collaboration with the County’s Child Protection Services unit.

Motion No. 6: Moved to Discuss & Adopt Resolution No. 340
Motion By: Legislator Nolan
Motion Seconded By: Legislator Lopez

Discussion: None

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolution ADOPTED

Resolution No. 352: Amending The 2019 Ulster County Budget To Accept An Allocation Of Family First Transition Funds From The New York State Office Of Children And Family Services – Department Of Social Services

Resolution Summary: This resolution amends the 2019 Ulster County budget to accept additional funding for the Family First Transition program from the NYS Office of Children and Family Services. The County will use the funds to engage and support kinship caregivers as part of its recruitment and retention strategies. \$39.6K

Motion No. 7: Moved to Discuss & Adopt Resolution No. 352
Motion By: Legislator Nolan
Motion Seconded By: Legislator Petit

Discussion: None

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolution ADOPTED

Resolution No. 353: Authorizing The Chair Of The Ulster County Legislature To Execute An Agreement With The New York State Office Of Victim Services For Victims Of Crime Act (VOCA) Victim And Witness Assistance Grant Program – Department Of Social Services

Resolution Summary: This resolution authorizes the Chair of the Ulster County Legislature to execute an agreement with the NYS Office of Victim Services for the Victims of Crime Act (VOCA) Victim and Witness assistance grant program. The funds will be used exclusively to enhance the services offered to child and adult victims of domestic violence, child victims of sexual abuse, and child victims of serious physical abuse who receive services through the County's Family and Child Advocacy Center. \$351K Term 10/1/2019 – 9/30/2022.

Motion No. 7: Moved to Discuss & Adopt Resolution No. 353
Motion By: Legislator Petit
Motion Seconded By: Legislator Nolan

Discussion: Commissioner Iapoce shared his enthusiasm to receive these funds to continue providing excellent service to the Family Children's Advocacy Center, (FCAC) to supplement the existing services on O'Neil St., Kingston. Committee discussion ensued.

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolution ADOPTED

Resolution No. 354: Amending The 2019 Ulster County Budget To Accept Increased Funding From The New York State Office For People With Developmental Disabilities For A Direct Support Program Cost of Living Adjustment And A Minimum Wage Adjustment – Department Of Mental Health

Resolution Summary: This resolution amends the 2019 Ulster County budget to accept additional funding from the NYS Office for People with Developmental Disabilities for a direct support program cost of living adjustment, and a minimum wage adjustment. \$54.3K State

Motion No. 7: Moved to Discuss & Adopt Resolution No. 354
Motion By: Legislator Nolan
Motion Seconded By: Legislator Wawro

Discussion: None

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolution ADOPTED

Resolution No. 355: Setting A Public Hearing On Proposed Local Law No. 6 Of 2019, A Local Law Increasing The Salary And Hours Of The Commissioner Of Social Services, To Be Held On Tuesday, September 10, 2019 At 6:20 PM

Resolution Summary: This resolution sets a public hearing date on Proposed Local Law No. 6 of 2019, A Local Law increasing the salary and hours (40/wk) for the Commissioner of Social Services position.

Motion No. 7: Moved to Discuss & Adopt Resolution No. 355
Motion By: Legislator Nolan
Motion Seconded By: Legislator Petit

Discussion: Legislator Nolan explained the Commissioner already works additional hours. Committee discussion ensued. Chair Lopez and John Milgrim noted support for the Commissioner.

Voting In Favor: Legislators Lopez, Nolan, Petit, Wawro
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: Resolution ADOPTED

Old Business

The Committee discussed Mr. Kadgen's request to provide public service announcements/education informing school age parents on the excessive marijuana use among high school students in Ulster County. Legislator Nolan would like more policy/research information such as the Smart Approaches to Marijuana, (SAM) presentation, to help identify an intervention the committee can recommend - noting the School Board oversees school matters and can actually take action. Also, the Healthy Ulster Council can help. Legislator Wawro noted Raising Your Awareness Against Narcotics, (RYAN) started by the Kelder family, is partnering with all Ulster County school districts for 9th graders on September 26, a day of prevention with guest speakers, resources and music. Legislator Petit suggested they consider approaching the legalization of marijuana use the same as age restrictions established for cigarettes. Committee discussion ensued.

Chair Lopez asked if there was any other business, and hearing none;

Adjournment

Motion Made By: Legislator Petit
Motion Seconded By: Legislator Wawro
No. of Votes in Favor: 4
No. of Votes Against: 0

TIME: 6:25 PM

Respectfully submitted: Nettie Tomshaw, Legislative Staff

Minutes Approved: September 4, 2019

ULSTER COUNTY LEGISLATURE



TRACEY A. BARTELS
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VICTORIA A. FABELLA
Clerk 845-340-3666

August 6, 2019

The Honorable Andrew M. Cuomo
Governor of New York State
NYS Capitol Building
Albany, NY 12224

Dear Governor Cuomo,


We, the below signed members of the Ulster County Legislature's Standing Committee on Public Health & Social Services write to respectfully urge your support of State Senate and Assembly Bills S.6531 and A.2836.


Ulster County, like so many others in New York State, relies on small businesses for the local jobs they supply and, in the case of local pharmacies, for the quality person to person care they provide. It is clear that the spread pricing schemes of pharmacy benefit managers, and practices related to the Medicaid Managed Care Program are robbing county taxpayers and forcing the closure of independent pharmacies.

We believe that Senate Bill S.6531 and Assembly Bill A. 2836 are an important first step in bringing necessary oversight and accountability to this industry and strongly urge you to sign this bills into law.

We truly appreciate your time and attention to this request.

Sincerely,


Craig V. Lopez, Committee Chairman
Ulster County Legislature, District 14


Kathy Nolan, Committee Deputy Chair
Ulster County Legislature, District 22


Julius Collins
Ulster County Legislature, District 15


Laura Petit
Ulster County Legislature, District 8


Mary Wawro
Ulster County Legislature, District 1

RECEIVED
AUG 06 2019

ULSTER COUNTY LEGISLATURE

Public Health Law**Laws Affected:**

Rpld & add §280-a, Pub Health L; add Art 29 §§2901 - 2913, amd §2402, Ins L

Versions Introduced in 2017-2018 Legislative Session:

[A10985 \(/Legislation/Bills/2017/A10985\)](#)

S6531 (ACTIVE) - SUMMARY

Provides for pharmacy benefit management and the procurement of prescription drugs to be dispensed to patients, or the administration or management of prescription drug benefits; sets forth definitions; provides for funds received by a pharmacy in trust for the health plan or provider and provides for accountability of such funds; further provides for an appeals process to investigate and resolve disputes regarding multi-source generic drug pricing.

S6531 (ACTIVE) - SPONSOR MEMO

BILL NUMBER: S6531

SPONSOR: BRESLIN


TITLE OF BILL: An act to amend the public health law, in relation to pharmacy benefit managers; to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers; and to repeal certain provisions of the public health law relating thereto

PURPOSE OR GENERAL IDEA OF BILL:


This bill requires licensure for pharmacy benefit managers (PBMs) and specifies their duties and obligations as service providers.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of the bill amends Public Health Law § 280-a to define the range of activities pharmacy benefit managers (PBM) engage in. A new subdivision 2 provides that PBMs have a duty to the covered individual and the health plan or provider to perform pharmacy benefit management services with care, skill, prudence, diligence, and professionalism, and for the best interests primarily of the covered individual, and the

[VIEW MORE \(66 LINES\)](#) 

S6531 (ACTIVE) - BILL TEXT

 [DOWNLOAD PDF \(HTTPS://LEGISLATION.NYSENATE.GOV/PDF/BILLS/2019/S6531\)](https://legislation.nysenate.gov/pdf/bills/2019/S6531)

STATE OF NEW YORK

6531

2019-2020 Regular Sessions

IN SENATE

June 14, 2019

Introduced by Sens. BRESLIN, RIVERA -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, in relation to pharmacy benefit managers; to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers; and to repeal certain provisions of the public health law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:


Section 1. Section 280-a of the public health law is REPEALED and a new section 280-a is added to read as follows:

§ 280-A. PHARMACY BENEFIT MANAGERS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HEALTH PLAN OR PROVIDER" MEANS AN ENTITY FOR WHICH A PHARMACY BENEFIT MANAGER PROVIDES PHARMACY BENEFIT MANAGEMENT INCLUDING, BUT NOT LIMITED TO: (I) A HEALTH BENEFIT PLAN OR OTHER ENTITY THAT APPROVES, PROVIDES, ARRANGES FOR, OR PAYS FOR HEALTH CARE ITEMS OR SERVICES, UNDER WHICH PRESCRIPTION DRUGS FOR BENEFICIARIES OF THE ENTITY ARE PURCHASED OR WHICH PROVIDES OR ARRANGES REIMBURSEMENT IN WHOLE OR IN PART FOR THE PURCHASE OF PRESCRIPTION DRUGS; OR (II) A HEALTH CARE PROVIDER OR PROFESSIONAL THAT ACQUIRES PRESCRIPTION DRUGS TO USE OR DISPENSE IN PROVIDING HEALTH CARE TO PATIENTS WHERE THE PRESCRIPTION DRUG IS THE SUBJECT OF THE PHARMACY BENEFIT MANAGER'S PHARMACY BENEFIT MANAGEMENT SERVICES.

(B) "PHARMACY BENEFIT MANAGEMENT SERVICES" MEANS THE SERVICE PROVIDED TO A HEALTH PLAN OR PROVIDER, DIRECTLY OR THROUGH ANOTHER ENTITY, AND REGARDLESS OF WHETHER THE PHARMACY BENEFIT MANAGER AND THE HEALTH PLAN OR PROVIDER ARE RELATED, OR ASSOCIATED BY OWNERSHIP, COMMON OWNERSHIP, ORGANIZATION OR OTHERWISE; INCLUDING THE PROCUREMENT OF PRESCRIPTION DRUGS TO BE DISPENSED TO PATIENTS, OR THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS, INCLUDING BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

[VIEW MORE \(611 LINES\)](#) 

[S6531 \(/Legislation/Bills/2019/S6531\)](#)

Law Section:

Public Health Law

Laws Affected:

Rpld & add §280-a, Pub Health L; add Art 29 §§2901 - 2913, amd §2402, Ins L


Versions Introduced in 2017-2018 Legislative Session:

[A10985 \(/Legislation/Bills/2017/A10985\)](#)

A2836A (ACTIVE) - SUMMARY

Provides for pharmacy benefit management and the procurement of prescription drugs to be dispensed to patients, or the administration or management of prescription drug benefits; sets forth definitions; provides for funds received by a pharmacy in trust for the health plan or provider and provides for accountability of such funds; further provides for an appeals process to investigate and resolve disputes regarding multi-source generic drug pricing.

A2836A (ACTIVE) - BILL TEXT

 [DOWNLOAD PDF \(HTTPS://LEGISLATION.NYSENATE.GOV/PDF/BILLS/2019/A2836A\)](https://legislation.nysenate.gov/pdf/bills/2019/a2836a)

STATE OF NEW YORK

2836--A

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

Introduced by M. of A. GOTTFRIED, GUNTHER, ABINANTI, KIM, SAYEGH, STECK, McDONALD, REILLY, FAHY, CAHILL -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to pharmacy benefit managers; to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers; and to repeal certain provisions of the public health law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:


Section 1. Section 280-a of the public health law is REPEALED and a new section 280-a is added to read as follows:

§ 280-A. PHARMACY BENEFIT MANAGERS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HEALTH PLAN OR PROVIDER" MEANS AN ENTITY FOR WHICH A PHARMACY BENEFIT MANAGER PROVIDES PHARMACY BENEFIT MANAGEMENT INCLUDING, BUT NOT LIMITED TO: (I) A HEALTH BENEFIT PLAN OR OTHER ENTITY THAT APPROVES, PROVIDES, ARRANGES FOR, OR PAYS FOR HEALTH CARE ITEMS OR SERVICES, UNDER WHICH PRESCRIPTION DRUGS FOR BENEFICIARIES OF THE ENTITY ARE PURCHASED OR WHICH PROVIDES OR ARRANGES REIMBURSEMENT IN WHOLE OR IN PART FOR THE PURCHASE OF PRESCRIPTION DRUGS; OR (II) A HEALTH CARE PROVIDER OR PROFESSIONAL THAT ACQUIRES PRESCRIPTION DRUGS TO USE OR DISPENSE IN PROVIDING HEALTH CARE TO PATIENTS WHERE THE PRESCRIPTION DRUG IS THE SUBJECT OF THE PHARMACY BENEFIT MANAGER'S PHARMACY BENEFIT MANAGEMENT SERVICES.

(B) "PHARMACY BENEFIT MANAGEMENT SERVICES" MEANS THE SERVICE PROVIDED TO A HEALTH PLAN OR PROVIDER, DIRECTLY OR THROUGH ANOTHER ENTITY, AND REGARDLESS OF WHETHER THE PHARMACY BENEFIT MANAGER AND THE HEALTH PLAN OR PROVIDER ARE RELATED, OR ASSOCIATED BY OWNERSHIP, COMMON OWNERSHIP,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

VIEW MORE (615 LINES) 

COMMENTS

Drugs Cost A Lot, But Providers Aren't Getting Paid

When we think about why drugs cost so much in America, we normally blame manufacturers. We definitely should; they're the ones inflating prices beyond any reason.

Pharma isn't alone in this. There's a second force at play: PBMs, or Pharmacy Benefits Managers. They arose to help insurance companies handle the overwhelming amount of pharmacy claims generated each year. Now, they act behind a veil of secrecy where they steal from taxpayers and providers for one purpose: profit.

PBMs have consolidated now to where 3 of them - Caremark (owned by CVS), Express Scripts, and OptumRx - control over 80% of the market.

With their power and lack of transparency, they're driving up drug prices while cutting payments to providers (aka independent pharmacies aka me!). The net result: pharmacies are closing while patients pay more than ever for premiums, deductibles, and copays.

NYS Senator James Skoufis released a report investigating PBMs. They found PBMs stole 300 million from NY taxpayers and providers by engaging in "spread pricing" on Medicaid alone. They pay my pharmacy \$1 (not an exaggeration) on a medicine, then tell the plan it was \$40, for example.

The reason I'm here is if you do the math, it is about \$69 per managed care Medicaid enrollee, of which we in Ulster County have about 30 thousand people in. That's almost \$2.1 million in money from taxpayers and providers that lines the pockets. On Medicaid alone - don't forget the SUNY, Empire Plan, people on the exchange...

They engage in other monopolistic and abusive practices. They force customers to use pharmacies they own, either mail order or the chain stores. They use a separate price list for the pharmacies they own, so they pay themselves more AND get the spread, too.

These abuses, which, if continued, will lead to practically all independent pharmacies closing. And there's so few of us left compared to just 5 years ago.

I often try to imagine a world where PBMs didn't yield such corrupt power. What does it look like? Village Apothecary in Saugerties and Lake Katrine, would still be open.

We'd be there, providing amazing care. Personalized service. Helping individuals at their weakest and most vulnerable. Educating them on how to prevent disease and giving them our time to assist in the journey. We'd hiring the best local people, supporting other local businesses and charities. Things that don't happen with chain or mail order pharmacies.

This isn't some unrealistic day dream. It's what we used to do. It's what I'm still trying to do. But every year, I get taken out at the knees. Working harder and harder while making less and less.

PBMs steal from us providers, paying us far less than it takes to provide the service. They steal from all of us, by inflating their costs via their games like spread pricing.

1. Assume \$300,000,000 in spread pricing annually (PSSNY / 3Axis)
2. 4,299,897 Managed Care Enrollees in New York
(https://www.health.ny.gov/health_care/managed_care/reports/enrollment/monthly/2019/docs/en07_19.pdf)
3. $\$300,000,000 / 4,299,897 = \69.76 spread per enrollee
 - Multiply this by the number of enrollees in a county from the above link
 - This will give an idea of the impact of spread pricing on a county
 - It does not break down what percentage of the total is the state's responsibility and what percentage is the county's responsibility

Why should counties care?

- The ACA set a limit on the margins that insurance companies can make and it was set as a percentage of dollars spent. This actually incentivizes insurance companies (and PBMs) to spend more as opposed to spend less (they keep the same percentage of a larger amount).
- Spread pricing inflates the cost of prescription drugs which in turn inflates the capitation rates calculated under the Medicaid Managed Care Program
- If the county is paying its share of these inflated capitation rates, the county is overpaying for Medicaid services
- This is occurring in school districts and other tax payer funded programs as well (SUNY, CUNY, The Empire Plan, etc)

RECIPIENTS ENROLLED IN MAINSTREAM MEDICAID MANAGED CARE BY COUNTY, PLAN, AID CATEGORY, AND NYSoH

NYS, JULY 2019

County	Plan Name	TANF ADC & MA-ADC Roster Enrollment	SNA HR & MA-HR Roster Enrollment	SSI & MA-SSI Roster Enrollment	NYSoH Enrollment	TOTAL ENROLLED
Ulster Mandatory Eff. Mar 2007	TOTALS: Fidelis Care MVP Health Plan United Healthcare Plan of NY Wellcare of New York	1,782 866 751 33 132	375 138 158 29 50	1,775 631 848 75 221	24,992 11,596 10,678 1,304 1,414	28,924 13,231 12,435 1,441 1,817
Warren Mandatory Eff. Oct 2012	TOTALS: Capital District Physicians Health Plan Fidelis Care MVP Health Plan United Healthcare Plan of NY	513 26 445 22 20	148 8 121 10 9	588 22 490 45 31	8,579 484 6,988 738 369	9,828 540 8,044 815 429
Washington Mandatory Eff. Mar 2007	TOTALS: Capital District Physicians Health Plan Fidelis Care MVP Health Plan	565 133 410 22	124 28 91 5	710 246 446 18	9,452 2,507 6,505 440	10,851 2,914 7,452 485
Wayne Mandatory Eff. Oct 2010	TOTALS: Excellus Health Plan Fidelis Care United Healthcare Plan of NY	888 711 152 25	266 205 47 14	923 778 119 26	12,696 9,849 2,238 609	14,773 11,543 2,556 674
Westchester Mandatory Eff. Oct 1999	TOTALS: Affinity Health Plan Fidelis Care HealthFirst PHSP HIP of Greater New York MVP Health Plan United Healthcare Plan of NY	8,739 1,534 2,375 20 441 4,032 337	1,808 284 615 16 139 621 133	6,803 1,044 2,035 39 650 2,573 462	121,172 15,290 40,962 821 6,903 48,952 8,244	138,522 18,152 45,987 896 8,133 56,178 9,176
Wyoming Mandatory Eff. Jul 2012	TOTALS: Fidelis Care HealthNow United Healthcare Plan of NY YourCare Health Plan	244 135 88 5 16	85 50 25 9 1	166 88 70 5 3	4,817 3,112 1,269 246 190	5,312 3,385 1,452 265 210
Yates Mandatory Eff. Feb 2007	TOTALS: Excellus Health Plan Fidelis Care United Healthcare Plan of NY	180 134 45 1	39 33 6 0	189 163 24 2	3,373 2,352 950 71	3,781 2,682 1,025 74
Upstate Total		152,782	33,149	107,748	1,519,483	1,813,162

PBM Reference Material

January 24th, 2019: PSSNY Spread Pricing in NY Whitepaper by 3Axis Advisors

Link: https://pssny.site-ym.com/resource/resmgr/press/3Axis_NY_Medicaid_Managed_Ca.pdf

May 15th, 2019: CMS Guidance on Spread Pricing in Medicaid

Link: <https://www.cms.gov/newsroom/press-releases/cms-issues-new-guidance-addressing-spread-pricing-medicare-ensures-pharmacy-benefit-managers-are-not>

May 31st, 2019: Skoufis Report on PBMs in New York

Link: https://www.nysenate.gov/sites/default/files/article/attachment/final_investigatory_report_pharmacy_benefit_managers_in_new_york.pdf

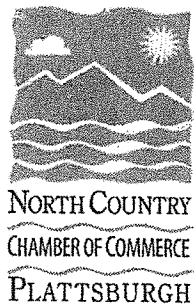
July 16th, 2019: Congressional Budget Office Estimate Regarding Impact of Spread Pricing

Link: https://www.cbo.gov/system/files/2019-07/s1895_0.pdf

Gatehouse Media “Side Effects” Series: <http://gatehousenews.com/sideeffects/>

3 Axis Advisors website: <https://www.3axisadvisors.com/>

46Brooklyn website: <https://www.46brooklyn.com/>



August 2, 2019

Andrew M. Cuomo
Governor of the State of New York
State Capitol Building
Albany, New York 12224

Home of:

North Country
Small Business
Council

Adirondack Coast
Visitors Bureau

North Country
Industrial Council

Québec-New York
Corridor Coalition

S.C.O.R.E.

North American
Center of Excellence
for Transportation
Equipment

Plattsburgh-
North Country
Service Corp.

Serving:

Clinton
Essex
Franklin
Warren
Hamilton
Akwesasne
Southern Québec

Re: S.6531/A.2836

Dear Governor Cuomo:

As you know, the North Country Chamber of Commerce is the largest business and economic development organization in northern New York, linking more than 4,000 enterprises and employers across Clinton, Franklin, Essex, Hamilton and northern Warren Counties. We have long shared your commitment to a health care system in New York State which is financially equitable, including the relative treatment of counties and their taxpayers and of community providers, including our pharmacies.

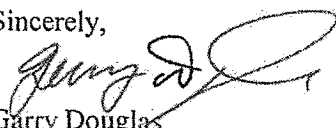
With the foregoing in mind, we wish to express our support for S.6531/A.2836. This legislation is pending your approval and we encourage you to sign the joint bill into law.

We are convinced that knowledgeable legislators such as Senator Neil Breslin and Assemblyman John McDonald have crafted a thoughtful and well considered bill which will lead to enhanced fairness, equity and health related services. This includes, for example, the generation of more regulation and oversight of spread pricing practices by pharmacy benefit managers (PBM's), addressing practices related to the Medicaid Managed Care Program which are inflating capitation rates and leading to counties overpaying for Medicaid services.

We thank you for your consideration and hope it will be possible for you to approve this pending legislation.

Onward and upward!

Sincerely,


Garry Douglas
President and CEO



A Strong Partner for Strong Business in the North Country

P.O. Box 310, 7061 Rt. 9, Plattsburgh, NY 12901-0310 Tel: 518-563-1000 Fax: 518-563-1028

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